

1. (Amended) A preportioning bag used in food operations wherein a bulk food supply is divided into portions of smaller size, individual portions are located in a bag, and the bag is closed for use at a later date, said bag defining exposed side walls, and printing on at least one side wall, said printing comprising at least several days of the week, said printing comprising a plurality of separate printed blocks positioned closely adjacent each other, each day being printed within a separate block, and wherein each day is printed in a different color.

Cancel claim 4.

REMARKS

The Examiner is respectfully requested to reconsider the rejection entered in this case particularly in light of the amendment of main claim 1.

Applicant addressed the prior art in the specification, particularly the Tenner et al disclosure which is now published as Patent No. 5,642,605. This patent is of particular interest because it is the only reference dealing with the subject matter of the invention, i.e., food preportioning.

Of great significance is the fact that Tenner et al recites, in column 1, the background of food preportioning. It is clear from a consideration of this discussion that prior workers had not discovered the invention claimed in this application. Furthermore, a consideration of the Tenner et al description of that invention, and further consideration of the Tenner et al claims, establishes that these inventors also did not find applicant's invention to be obvious.

The examiner has located several additional references but none of these deal with food preportioning and none teach applicant's particular claimed subject matter.

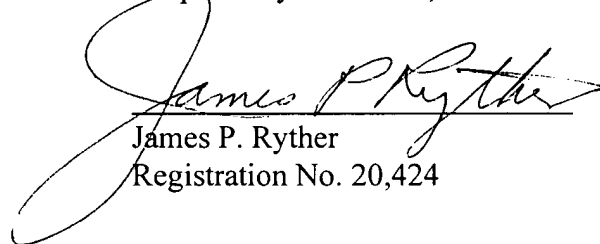
Claim 1 now recites that the printing consists of a plurality of days. In addition, each day is displayed in a block positioned closely adjacent another block displaying a different day. Furthermore, the claim recites that each day is printed in different colors. This combination is the most efficient developed for preportioning and the combination is clearly not suggested by the prior art.

It is well settled that a rejection based on Section 103 must be based on suggestions to combine teachings which are found in at least one of the references being combined with another reference. Here, the only reference dealing with food preportioning leads away applicant's invention because that invention is not among the methods used by the prior art.

It is also well settled that the combination of references must not be constructed from application claims. The secondary references listed on page 2 of the Examiner's action do, as the Examiner has stated, provide printing which can be marked. But a proper rejection would be to find at least a suggestion in this prior art to print in the particular manner now claimed. But that suggestion only comes from applicant's disclosure.

It is submitted that the claims are allowable as now presented and early and favorable treatment of this application is requested.

Respectfully submitted,



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